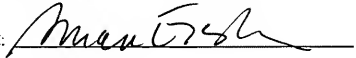


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:) Group Art Unit: 1624
WALLACE et al.) Confirmation No.: 2454
) Examiner: Noble E. Jarrell
)
U.S. Serial No.: 10/642,440)
) DATE OF TRANSMITTAL: 05/06/2009
)
Filing Date: August 14, 2003) I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
) TRANSMITTED TO THE USPTO BY ELECTRONIC FILING THROUGH
) PRIVATE PAIR ON THE DATE INDICATED ABOVE.
U.S. Patent No.: 7,501,427)
) TYPED OR PRINTED NAME: SUSAN ELSBERRY
)
Issue Date: March 10, 2009)
) SIGNATURE: 
)
For: QUINAZOLINE ANALOGS AS)
) RECEPTOR TYROSINE KINASE
) INHIBITORS
)
)
Atty. File No.: 102-02-US)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF FACTS UNDER 37 CFR § 1.705(b)(2)

Dear Sir:

1. This statement is respectfully submitted in support of the "Request for Reconsideration of Patent Term Adjustment Under 37 CFR § 1.705(d)" for the above-referenced patent. In view of the following, it is respectfully requested that Patentees be granted a final Patent Term Adjustment of 1093 days.

2. The patent term adjustment under 35 USC § 154(b) listed on the above-referenced patent is 695 days. Patentees believe the calculation of 695 days is in error, and that the applicant is entitled to 1093 days of Patent Term Adjustment under 37 CFR §§ 1.702(a) and 1.702(b).

3. Pursuant to 37 CFR § 1.703(a)(1), the USPTO had examination delay of 398 days for not mailing an action within fourteen months of the filing date. The application was filed on August 14, 2003, and the first action was the mailing of the restriction requirement on November 16, 2005, for a total delay of 398 days.

Pursuant to 37 CFR § 1.703(a)(2), the USPTO had examination delay of 41 days for not mailing an action within four months of a reply. A response to a non-final action was filed by the Patentees on August 17, 2006, and the Examiner mailed another non-final action on January 16, 2007, for a delay of 37 days. Additionally, a response to a non-final action was filed by the Patentees on May 16, 2007, and the Examiner mailed a final rejection (that was later withdrawn and a non-final action was mailed) on August 20, 2007, for a delay of 4 days. The total delay under 37 CFR § 1.703(a)(2) is 41 days.

Pursuant to 37 CFR § 1.703(a)(6), the USPTO had examination delay of 159 days for not issuing the patent within four months of the payment of the issue fee. The issue fee was paid on June 2, 2008, and the patent issued on March 10, 2009, for a total delay of 159 days.

There were no other delays pursuant to 37 CFR § 1.703(a). The total delay under 37 CFR § 1.703(a) was 598 days.

4. Pursuant to 37 CFR § 1.703(b), the USPTO had examination delay of 939 days for not issuing a patent within three years of the application date. The application was filed on August 14, 2003, and the patent issued on March 10, 2009, for a total delay of 939 days.

5. There were no other delays pursuant to 37 CFR §§ 1.703(c)-(e).

6. Pursuant to 37 CFR § 1.703(f), there is a total of 1337 days of delay, due to 200 days of overlap. The "B period" of delay (see paragraph 4 above) began on August 15, 2006. The "A period" delays that occurred in the "B period" delay are 37, 4 and 159 day delays (see paragraph 3 above). Thus, there is overlap of 200 days of delay. The total of the "A delay" is 598 days plus the total of the "B delay" 939 days minus the 200 days of overlap leaves a total of 1337 days of delay.

7. The patent is not subject to a terminal disclaimer.

8. Pursuant to 37 CFR § 1.704, there are 244 days of failure by the Patentee to engage in reasonable efforts to conclude prosecution.

Pursuant to 37 CFR § 1.704(b), there are 91 days of failure by the Patentee to engage in reasonable efforts to conclude prosecution. A non-final office action was mailed on March 10, 2006, and the Patentees responded on August 10, 2006, for a failure of 61 days. Another non-final action was mailed on January 16, 2007, and the Patentees responded on May 16, 2007, for a failure of 30 days. The total failure under 37 CFR § 1.704(b) was 91 days.

Pursuant to 37 CFR § 1.704(c)(8), there are 33 days of failure by the Patentee to engage in reasonable efforts to conclude prosecution. A response to a non-final office action was filed on May 16, 2007, and a supplemental IDS was filed on June 18, 2007, for a failure of 33 days.

Pursuant to 37 CFR § 1.704(c)(10), there are 120 days of failure by the Patentee to engage in reasonable efforts to conclude prosecution. A notice of allowance was mailed on March 5, 2008. A supplemental IDS was filed on June 2, 2008, and the Examiner mailed an amendment including consideration of the IDS on December 1, 2008, for a total of 183 days. Pursuant to 37 CFR § 1.704(c)(10), the failure is the lesser of the 183 days or four months (120 days).

There were no other failures by the Patentee to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704.

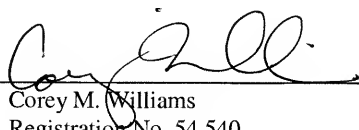
9. The total Patent Term Adjustment should be 1093 days, the delay of 1337 days minus the failure of 244 days.

In view of the foregoing, it is respectfully requested that this Request for Reconsideration of Patent Term Adjustment be favorably considered and that a corrected Determination of Patent Term Adjustment be issued to reflect a patent term adjustment of 1093 days.

Respectfully submitted,

ARRAY BIOPHARMA, INC., Applicant
Customer Number: 37802

Date: May 6, 2009

By: 
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